UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

JUL 3 2006

Mark T. Mansfield
Chief, Planning and Policy Branch
Department of the Army
U.S. Army Corps of Engineers
Fort Norfolk, 803 Front Street
Norfolk, VA 23510-1096

Dear Mr. Mansfield:

NOAA's National Marine Fisheries Service (NMFS), Northeast Region, Habitat Conservation Division, has reviewed the *Final Environmental Impact Statement* (FEIS) for the *Craney Island Eastward Expansion, Norfolk Harbor and Channels, Hampton Roads, Virginia.* The proposed project is located in the Port of Hampton Roads between the Cities of Portsmouth and Norfolk, Virginia. The alternative preferred by the Norfolk District Army Corps of Engineers (ACOE) and the non-federal sponsor, the Virginia Port Authority (VPA), is a 580-acre eastward expansion of the existing Craney Island Dredged Material Management Area (CIDMMA) into the Elizabeth River, and the subsequent construction of a container terminal. In a letter dated November 4, 2005 from NOAA's Office of Program Planning and Integration, we provided comments in the draft EIS. We offer the following comments on the FEIS.

GENERAL COMMENTS

Some of our comments and concerns about the project purpose and need have been addressed in the FEIS and in the response to comments. We appreciate the ACOE's effort in preparing its detailed response from which we have clearer understanding of the external constraints placed upon the project purpose and rationale for the analysis of alternatives. However, we maintain our statements on the DEIS that the consideration of less environmentally damaging alternatives that may afford the maximum practicable habitat protection for NOAA trust resources, and allow the project purpose to be achieved, has not been fully investigated. Therefore, we remain concerned about the environmental consequences of the proposed project. Moreover, the project will result in the permanent loss of 580 acres of aquatic habitat which cannot be replaced with the proposed mitigation, such that we cannot endorse its construction as proposed.

ESSENTIAL FISH HABITAT

We have reviewed the EFH assessment included in the FEIS. We do not agree with the ACOE's determination that there is little or no EFH in the project area due to degraded habitat and anthropogenic impacts. Nor can we concur that the adverse effects on EFH species from the loss

of 580 acres of aquatic habitat and the subsequent construction of a container terminal will be temporary and minimal. Habitat characteristics of the CIDMMA expansion area, including salinities, depths, sediment types, water quality, and the benthic community, indicate that this area is EFH for summer flounder (*Paralichthys dentatus*), black sea bass (*Centropristus striata*), red drum, (*Sciaenops occelatus*), bluefish (*Pomatomus saltatrix*), Atlantic butterfish (*Peprilus triacanthus*), and windowpane flounder (*Scopthalmus aquosus*). The exclusion of windowpane flounder from consideration in the EFH assessment based upon the ACOE's designation of the sediments as muddy clays is not appropriate as the designated EFH for windowpane flounder includes muddy bottoms, and the salinities and depths are consistent with the EFH defined for this species. The benthic organisms and forage species found at CIDMMA expansion site are components of the diet of windowpane. Also, windowpane have been caught in sampling done in the project area (Birdsong et. al 1984 in USACOE 2006).

Because the CIDMMA expansion and Phase I of the container terminal construction are expected to take five years to construct, and because the facility and fill will be permanent, we cannot agree that all of the impacts of the proposed project on EFH will be temporary. Elevated levels of suspended sediment will occur within the vicinity of the project area for the expected five years of construction. Such suspended sediment levels can reduce dissolved oxygen, can mask pheromones used by migratory fishes, and can smother immobile benthic organisms and newly-settled demersal juvenile fish (Auld and Schubel 1978; Breitburg 1988; Newcombe and MacDonald 1991; Burton 1993; Nelson and Wheeler 1997). Further, the 580-acre fill will be permanent and the facility will need maintenance dredging on a regular basis to maintain the access navigation channel. This will create long-term potential adverse impacts on EFH due to the suspended sediment level increases from the increased shipping traffic and the maintenance dredging activities.

The permanent loss of 580 acres of benthic habitat supplies a food source for both federally managed species and species managed by the Atlantic States Fisheries Commission such as striped bass and weakfish. According to the information in the FEIS and the USFWS Planning Aid Report included in the FEIS, the benthic community at the CIDMMA expansion area includes benthic invertebrates such as *Neries succinea*, *Sabellaira vulgarus,* and *Ampelisca abdita*. Steimle *et al.* (2000) report that *Ampelisca abdita* is particularly important to the diets of winter flounder (*Pseudopluronectes americanus*), windowpane flounder, juvenile scup (*Stenotomus chrysops*), juvenile weakfish (*Cynoscion regalis*), striped searobins (*Prionotus evolans*), juvenile black sea bass, and juvenile silver hake (*Merluccius bilinearis*), all of which have been documented to occur around the CIDMMA. *Paraprionospio pinnata,* the second most abundant benthic invertebrate species collected adjacent to Craney Island by Dauer and Ewing (1986 in FWS 2002), and *Neries succinea*, the seventh most abundant species, were found to be prey species of spot in the Chesapeake Bay by Homer and Boynton (1978).

The Elizabeth River portion of the project is an important nursery area for many commercial and recreational species including spot, Atlantic croaker, Atlantic menhaden, weakfish, striped bass, black sea bass, and summer flounder. The most intensive use for spawning is by forage fish, including bay anchovy and Atlantic silversides (Priest 1981 in ACOE 2005). Bay anchovy has

been shown as a prey species for windowpane flounder (Kimmel 1973; Carlson 1991 in Packer *et al.* 1999) for striped bass (Homer and Boynton 1978; Hollis 1952) and weakfish (Chao and Musick 1977; Hartman and Brandt 1995). Both species are also important to the diets of summer flounder (Homer and Boynton 1978; Smith and Daiber 1977). Juvenile spot and Atlantic menhaden are also components of the diets of weakfish and bluefish (Hartman and Brandt 1995), summer flounder and spotted hake (*Urophycis regia*) (Homer and Boynton 1978). As a result, we cannot consider the loss of this habitat to have been minimized or be a minimal adverse effect on EFH, federally managed species or other resources of concern to NMFS.

In addition, the Elizabeth River has been designated as a Confirmed Anadromous Fish Use Area by the State of Virginia. Species found in the area include alewife (*Alosa pseudoharengus*), American shad (*Alosa sapidissima*), blueback herring (*Alosa aestivalis*), hickory shad (*Alosa mediocris*), striped bass (*Morone saxatilis*), and white perch (*Morone americana*). The upstream portions of the Elizabeth River and its tributaries provide spawning and nursery habitat for these species. Disturbance of the sediments caused by dredging could create undesirable turbidity levels and can mask pheromones used by migratory fishes, impeding their migration. Buckel and Conover (1997) in Fahey et al. (1999) report that diet items of juvenile bluefish includes *Alosa* species such as these. These species are also prey items of summer flounder (*Paralichthys dentatus*) and windowpane flounder (*Scopthalmus aquosus*) (Steimle et. al. 2000). Thus, activities that adversely affect the spawning success and the quality for the nursery habitat of these anadromous fish will adversely affect the EFH for juvenile bluefish by reducing the availability of prey items. Therefore, dredging operations should take into account these evaluations and avoid impacts on anadromous fish migration and spawning and the associated impacts on EFH and the prey species of federally managed fish.

The proposed compensatory mitigation plan for the permanent loss of 580 acres of aquatic habitat includes the creation of 20 acres of oyster reefs, 56 acres of wetlands restoration, and the remediation of 67 acres of contaminated sediment. The FEIS states that the 67 acres of sediment remediation will improve 411 acres of bottom habitat. While the mitigation plan included in the FEIS will have ecological benefits to fishery resources, it does not justify the forfeited acreage. The FEIS acknowledges that in-kind replacement of the habitat to be lost is not practicable. We recognize the efforts made to develop the proposed compensatory mitigation plan, but we remain concerned that all of the direct, indirect, individual, and cumulative impacts of the proposed project have not been addressed or adequately compensated. There is lack of detailed analysis and plans in the FEIS for all of the components of the mitigation and baseline data on the proposed mitigation sites. Therefore, it is not possible to assess fully the benefits of the proposed mitigation, its likelihood of success, and the consequence of lost and impaired habitat functions for a robust assemblage of living marine resources under NOAA authority.

We understand that all of the proposed mitigation will be subject to final review and approval by the ACOE and the federal and state regulatory agencies, and that this review process will help to ensure the success of the planned mitigation. More detailed plans, baseline data, and monitoring and maintenance plans for each site are necessary to avoid impacts and determine if the mitigation will offset the remaining impacts on EFH.

Essential Fish Habitat Conservation Recommendations

The recommendations are pursuant to Section 305 (b) (4) (A) of the Magnuson Stevens Act. The proposed project will have a substantial adverse effect on EFH by filling 580 acres of aquatic habitat, dredging 127 acres of the Elizabeth River for the construction of a navigation access channel, and impeding the migration and spawning of anadromous fish.

We recommend that the project not be constructed, as proposed. Consideration of less environmentally damaging alternatives that may afford maximum practicable habitat protection for NOAA trust resources should be investigated further. In addition, the mitigation plan should undergo further development to ensure that it compensates for all unavoidable project impacts.

Should the project proceed as proposed, we recommend:

No dredging be permitted between February 15 and June 30 of any year to protect migrating and spawning anadromous fish that are prey species of federally managed fish such as bluefish and summer flounder.

Detailed plans for all compensatory mitigation projects be provided to us for review including baseline data on each site (benthic sampling, contaminant sampling, existing hydrology, vegetation elevations, as appropriate, for each site), as well as monitoring and maintenance plans for each site. All success criteria and monitoring and maintenance plans should be developed for each site. These plans should include the site specific goals of the proposed mitigation project, criteria for success, remedial actions that may be taken, and long-term management plans. All mitigation plans must be developed fully and approved by the ACOE. The ACOE should review and approve these plans prior to work on the mitigation sites. These plans should be in place prior to any construction on the CIDMMA expansion or on the mitigation site.

Construction of the mitigation projects should be prior to, or concurrent with, the construction of the CIDMMA expansion.

Section 305(b)(4)(B) of the MSA requires the ACOE to provide NMFS with a detailed written response to these EFH conservation recommendations, including a description of measures adopted by the ACOE for avoiding, mitigating, or offsetting the impact of the project on EFH. In the case of a response that is inconsistent with NMFS' recommendations, the ACOE must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the proposed action, and the measures needed to avoid, minimize, mitigate, or offset such effects pursuant to 50 CFR 600.920(k).

If new information becomes available or the project is revised in such a manner that affects the basis for the above EFH conservation recommendations, the EFH consultation must be reinitiated pursuant to 50 CFR 600.920(l).

If you wish to discuss this matter further, please contact Karen Greene or Stan Gorski at our Sandy Hook Field Office at (732) 872-3037.

Sincerely,

Peter Colosi, Jr.

Peter D. Colosi, Jr.
Assistant Regional Administrator
for Habitat Conservation

cc: NMFS NERO HCD – Kurkul, Mantzaris
NMFS NERO HCD - Gloucester, Sandy Hook, Annapolis
NMFS NERO PRD – Gloucester
NMFS, HQ - Bigford
NOAA-PPI – S. Kennedy
NOAA OCRM – R. Schnieder
FWS – Annapolis
EPA – Region III
MAFMC- T. Hoff
NEFMC - L. MacGee
VMRC- W. Pruitt

LITERATURE CITED

Auld, A.H., and J.R. Schubel. 1978. Effects of suspended sediments on fish eggs and larvae: a laboratory assessment. Estuar. Coast. Mar. Sci. 6: 153-164.

Birdsong, R.S., R.L. Bedenbaugh, and R.D. Owen. 1984. Fin fish seasonality and utilization of Hampton Roads and the Entrance Channel. Old Dominium University, Applied Research Laboratory, Norfolk VA.

Breitburg, D.L. 1988. Effects of turbidity on prey consumption by striped bass larvae. Trans. Amer. Fish. Soc. 117: 72-77.

Buckel, J.A. and D.O. Conover. 1997. Movements, feeding periods, and daily ration of piscivorous young-of-the-year bluefish, *Pomatomus saltatrix*, in the Hudson River estuary. Fish. Bull. (U.S.) 95(4):665-679.

Burton, W.H. 1993. Effects of bucket dredging on water quality in the Delaware River and the potential for effects on fisheries resources. Prepared for: Delaware Basin Fish and Wildlife Management Cooperative, by Versar Inc., Columbia MD.

Carlson, J.K. 1991. Trophic relationships among demersal fishes off New Haven Harbor (New Haven, CT) with emphasis on the winter flounder (*Pseudopluronectes americanus*) [MS Thesis] New Haven, CT: Southern Connecticut State Univ. 71 p.

Chao, L.N., and J.E. Musick. 1977. Life history, feeding habits, and functional morphology of juvenile scianid fishes in the York River Estuary, Virginia. Fish. Bull. (Wash. D.C.) 75: 657-702.

Dauer, D.M., and R.M. Ewing. 1986. Macrobenthic communities in the vicinity of Craney Island. Submitted to the Norfolk District, U.S. Army Corps of Engineers by Old Dominion University, Norfolk, VA.

Fahey, M.P., P.L. Berrien, D.L. Johnson and W.W. Morse. 1999. Essential Fish Habitat Source Document: Bluefish, *Pomatomus saltatrix* life history and habitat characteristics. U.S. Dep. Commer., NOAA Technical Memorandum NMFS-NE-144.

Hartman, K.J., and S.B. Brandt. 1995. Trophic resource partitioning, diets, and growth of sympatric estuarine predator. Trans. Am. Fish. Soc. 124: 520-537.

Hollis, E.H. 1952. Variations in the feeding habits of striped bass *Roccus saxatilis* (Walbaum), in Chesapeake Bay. Bull. Bingham Oceanogr. Collect. Yale Univ. 14(1): 111-131.

Homer, M., and W.R. Boynton. 1978. Stomach analysis of fish collected in the Calvert Cliffs region, Chesapeake Bay – 1977. Univ. Md. Chesapeake Biol. Lab. Ref. 78-154-CBL. 360 p.

Kimmel, J.J. 1973. Food and feeding of fishes from Magothy Bay, VA. [MS Thesis]. Williamsburg, V: Old Dominion Univ. 220 p.

Nelson, D.A., and J.L. Wheeler. 1997. The influence of dredging-induced turbidity and associated contaminants upon hatching success and larval survival of winter flounder, *Pleuronectes americanus*, a laboratory study. Final report, Grant CWF #321-R, to Connecticut Department Environmental Protection, by National Marine Fisheries Service, Milford CT.

Newcombe, C.P., and D.D. MacDonald. 1991. Effects of suspended sediments on aquatic ecosystems. N. Amer. J. Fish. Manag. 11: 72-82.

Packer, D.B, S.J Greisbach, P.L. Berrein, C.A. Zetlin, D.L. Johnson, and W.W. Morse. 1999. Essential Fish Habitat Source Document: Summer Flounder, *Paralicthys dentatus*, Life History and Habitat Characteristics. NOAA Technical Memorandum NMFS-NE-151. Woods Hole, MA. 88 p.

Preist, W. 1981. A study of dredging effects in Hampton Roads, Virginia. Special Report No. 247 in Applied Marine Science and Ocean Engineering. Virginia Institute of Marine Science, School of Marine Science, College of William and Mary, Gloucester Point, VA.

Smith, R.W., and F.C. Daiber. 1977. Biology of summer flounder, *Paralichthys dentatus*, in Delaware Bay. Fish. Bull. (Wash. D.C.) 75: 823-830.

Steimle, F.W., R.A. Pikanowski, D.G. McMillan, C.A. Zetlin, and S.J. Wilk. 2000. Demersal fish and American lobster diets in the Lower Hudson-Raritan Estuary. NOAA Technical Memorandum NMFS-NE-161. Woods Hole, MA. 106 p.

U.S. Army Corps of Engineers. 2006. Final Environmental Impact Statement and Appendixes Craney Island Expansion. Norfolk District Army Corps of Engineers. April 2006.

U.S. Fish and Wildlife Service. 2002. Craney Island expansion feasibility study planning aid report: baseline biological conditions and impacts of eastward expansion. USFWS Chesapeake Bay Field Office. October 2002.

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

AUG 16 2006

North Atlantic Division
Regional Integration Team

Mr. Peter D. Colosi, Jr.
Assistant Regional Administrator for Habitat Conservation
National Marine Fisheries Service
Northeast Regional Office
One Blackburn Drive
Gloucester, Massachusetts 01930-2298

Dear Mr. Colosi:

This is in response to your letter dated July 3, 2006, providing comments to the Final Environmental Impact Statement (FEIS) for the Craney Island Eastward Expansion, Norfolk Harbor and Channels, Virginia, dated June 2006. The following paragraphs summarize the responses of the U.S. Army Corps of Engineers to the points raised in your letter and its position regarding the Essential Fish Habitat Conservation Recommendations provided pursuant to Section 305(b)(4)(A) of the Magnuson Stevens Act. Also enclosed with this letter are the more detailed responses to your comments which will be included in the final report documentation.

As you review this additional information, please note that the National Environmental Policy Act (NEPA) scoping for this project took place over a period of more than 5 years. During that period a NEPA Technical Committee was assembled to assist the Corps in developing the scope and breadth of the NEPA document, to identify significant resource concerns, and to provide technical review of work products supporting the NEPA document. The committee was comprised of representatives from 12 Federal and State agencies and 3 local interest groups. In addition, a Mitigation Subcommittee also assisted in the scoping and review of a comprehensive mitigation plan over a 3 year period. The National Marine Fisheries Service (NMFS) was invited to participate but was unable to attend and did not provide any comment during this period. It was not until we received comments in response to the Draft EIS that we were aware of your Agency's concerns. The Corps has made substantial revisions to the FEIS in an attempt to thoroughly and sincerely address NMFS concerns.

While acknowledging that the project area contains some habitat that meets the definition of Essential Fish Habitat (EFH), the information presented in the FEIS describes the area as having more than a modest degree of habitat degradation. This characterization is based on data collected by State resource agencies and other investigators going back over several decades. To consider the project area as being part of a healthy ecosystem that is critical to EFH is not supported by these data.

Virginia Institute of Marine Science (VIMS) trawl surveys conducted from 1978 to 2000, and independent EFH investigations cited in the FEIS, indicate that EFH species of concern make up a very small fraction of the total fish caught (<0.01 percent) in the project area, and that the project area is not preferred habitat for EFH species.

With regards to water quality impacts to EFH, the FEIS documents that water quality will be affected by localized increases in turbidity and total suspended solids during dredging, cell construction, and wharf construction. However, we consider this condition to be temporary because the dredging operation will cease at the end of project construction and dredging will be intermittent, not occurring continuously over the construction period. Because of the localized and temporary nature of water column turbulence, and the tolerance of resident fish species to naturally elevated levels of suspended sediments, feeding success of sight-feeding fish is not expected to be impacted to any appreciable extent. A dredging plan will be developed during the preconstruction engineering and design (PED) phase to identify specific measures to minimize the potential effects of a suspended sediment plume during the construction.

As part of the EIS investigations, VIMS conducted a study of the benthic community within the project area and to determine the impact of the eastward expansion of the CIDMMA (Seitz and Lipcius, 2002). The footprint of the CIDMMA eastward expansion had significantly lower bivalve density, diversity, and abundance than the adjacent habitats. VIMS concluded from this study that "...the CIDMMA expansion area is not likely to be a significant feeding ground for the blue crab or demersal fish."

The FEIS acknowledges that the Elizabeth River provides spawning and nursery habitat for some commercial and recreational fish. However, the river's watershed has been highly urbanized, and the waterfront has been heavily industrialized for decades. While some of the river's upper reaches are less subject to pollutant input and, therefore, more likely to contain spawning and nursery areas of modest quality, the CIDMMA expansion area is not. Data are presented in the FEIS that show the proposed expansion area to have problems with nutrient enriched water, sediment contamination, bottom community health, dissolved oxygen, and tributyltin levels.

The Corps agrees that dredging operations should take into account spawning in the Elizabeth River by anadromous fish, however, spawning habitat for these species is found in the upstream reaches of the river and not in the vicinity of the proposed CIDMMA expansion. Therefore, use of the proposed project area by anadromous fish would only be as part of a migration corridor. Only a small area of the Lower James and Elizabeth River mouth at the location of the proposed access channel may experience temporary increased turbidity during

dredging activities. Due to the size of the Elizabeth River and Lower James River mouths, this small area of minimal impact is not anticipated to hinder migration of anadromous fishes.

With respect to the Essential Habitat Conservation Recommendations, the FEIS recognizes that there will be some temporary and permanent impacts to fisheries related to the proposed expansion project. These impacts have been taken into consideration in the mitigation plan by providing restored and improved nursery areas and habitat for EFH species in the form of wetland restoration, oyster reef restoration, and impaired sediment remediation in the Elizabeth River. In addition, approximately 18 acres of rip-rap will be placed around the perimeter of the expansion cell, providing additional substrate for benthic species and structure for forage species. During the initial phases of mitigation plan development, more than 100 different locations were evaluated in the initial screening of alternatives that ranged from oyster restoration, riparian buffers, artificial fish reefs, clam sanctuaries, fish passage, sediment clean-up, and submerged aquatic vegetation restoration. It is important to note that the mitigation plan was developed collaboratively with the input of multiple stakeholders to fully compensate for the impacts of the project.

We have the following responses to your specific recommendations:

- The Corps does not concur with NMFS's EFH Conservation Recommendation that no dredging should be permitted between February 15 and June 30 of any year to protect migrating and spawning anadromous fish. The Virginia Department of Game and Inland Fisheries (VDGIF) indicate that the current fisheries data do not substantiate a time-of-year restriction (TOYR) in the Elizabeth River or the lower James River. The USACE concurs with the VDGIF finding and, therefore, does not plan to implement the proposed EFH conservation recommendation for the same reason.

- The Corps concurs with NMFS's EFH Conservation Recommendation that detailed plans for all compensatory mitigation projects be provided for review prior to any construction on the CIDMMA expansion or on the mitigation site. These will be developed and provided during the PED phase.

- The Corps concurs with NMFS's EFH Conservation Recommendation that construction of the mitigation projects should be prior to, or concurrent with, the construction of the CIDMMA expansion.

I hope this information is helpful in addressing your concerns. We look forward to working with you as the detailed project designs and mitigation plans are finalized. Should you have any questions as you review the attached information or need any additional information, please do not hesitate to call Mr. Craig Seltzer of the Corps Norfolk District at (757) 201-7390.

Sincerely,

Raleigh H. Leef

for Thomas W. Waters, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

June 30, 2006

Headquarters, U.S. Army Corps of Engineers
Attn: CECW-P (IP),
7701 Telegraph Road
Alexandria, VA. 22315-3860

Re: Final Environmental Impact Statement (FEIS), Craney Island Eastward Expansion, Construction of a 580-acre Eastward Expansion of the Existing Dredged Material Management Area, Port of Hampton Roads, Norfolk Harbor and Channels, VA. CEQ # 20060219

Dear Mr. Walters:

In accordance with the National Environmental Policy Act (NEPA), Section 309 of the Clean Air Act, Section 404 of the Clean Water Act (Section 404), and the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR 1500-1508), the U.S. Environmental Protection Agency (EPA) has reviewed the Final Environmental Impact Statement (FEIS) for the proposed 580-acre Craney Island Eastward Expansion of the Existing Dredged Material Management Area, and construction of a Port for Hampton Roads. The FEIS has been developed by the U.S. Army Corps f Engineers based on the Draft Environmental Impact Statement (DEIS) presented to the public and the regulatory agencies in November 2005.

The Craney Island Eastward Expansion is a proposed extension of the existing Craney Island Dredged Material Management Area (CIDMMA) and the development of a port container terminal. By expanding the CIDMMA, the project proponent's objectives are to extend the useful life of the dredged material management area as well as to build long term berthing and land side port facilities. Our comment letter of November, 2005 on the DEIS discussed the EPA's issues and concerns on the proposed project.

The FEIS has adequately assessed the affected environment and environmental consequences of this project; however, EPA continues to have concerns regarding the environmental impacts anticipated in the construction of the project. Our concerns are based primarily on the success of the mitigation in compensating for the environmental loss. As described in the mitigation plan developed for the FEIS, the mitigation was based on a habitat evaluation approach that assesses the functional productivity lost due to the projects impacts. This approach concluded that approximately 487 acres of

mitigation made up of a mix of wetlands restoration and conservation, oyster reef restoration and sediment clean up and restoration would provide a large scale ecosystem benefit for the affected area. EPA was part of the mitigation committee and agrees that this plan goes a long way in mitigating for the lost environmental resources due to this project. To assure that the mitigation is successful EPA recommended in the comments to the DEIS that an adaptive management approach be implemented to assure the success of the mitigation plan. In the FEIS the Corps has agreed to this approach. We would further recommend that along with the VDEQ and VMRC that any other interested resource agency be invited to participate in the monitoring and adaptive management approach. In addition any approach that would increase the mitigation for this project would be strongly recommended. For example if the cost of sediment remediation could be lowered by allowing the sediment to be placed in the Craney Island expansion cell it should be pursued even though now prohibited by law. Furthermore in light of the enormous economic benefits that will be realized by the port the current mitigation costs are not unreasonable. Additional acres of conservation should be considered.

Our comments on the DEIS indicated our concern that the impacts due to the construction of the port facility portion of the project were not completely developed. We understand that additional NEPA documents will be prepared when more detail on the port development design is completed. This additional EIS will complete the impact assessment of this project and will further detail the issues that need to be addressed.

Thank you for the opportunity to participate in this study, and to provide comments and recommendations on the environmental issues of this project. We look forward to continued participation in this project.

Sincerely,

William Arguto
NEPA Team Leader

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

AUG 0 9 2006

North Atlantic Division
Regional Integration Team

Mr. William Arguto
NEPA Team Leader
Environmental Programs Branch (3EA30)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Dear Mr. Arguto:

This is in response to your letter dated June 30, 2006, prepared in response to the Final Environmental Impact Statement (EIS) for the Craney Island Eastward Expansion, Norfolk Harbor and Channels, Virginia, dated June 2006.

You have recommended in your comments on the Draft EIS, and in your recent letter, that an adaptive management approach be implemented to assure the success of the recommended mitigation plan. You further recommend that along with the VDEQ and VMRC that any other interested resource agency be invited to participate in the monitoring and adaptive management approach. In addition, you suggest that any approach that would increase the mitigation for this project would be strongly recommended, including that additional acres of conservation should be considered. Finally, you note that additional NEPA documents will be prepared to address the port development project at Craney Island.

The mitigation plan components, as presented in the mitigation appendix (EIS, Appendix B), will be monitored following implementation, and adaptive management will be implemented to assure the production of ecological benefits. Specific details regarding monitoring and adaptive management will be developed during the preconstruction engineering and design (PED) phase in consultation with VDEQ, VMRC, and other interested resource agencies, as part of the permitting and continued detailed development of the mitigation portion of the project. In connection with the advanced engineering and design of the mitigation plan components, every effort will be made to both reduce costs and maximize ecological benefits and mitigation over the landscape, including the incorporation of adjacent conservation/buffer areas where applicable.

With respect to the potential impacts associated with the construction and operation of the port facilities, the non-Federal sponsor, the Virginia Port Authority, has committed to prepare

supplemental environmental impact analyses addressing the construction and operation of the port terminal and to obtain appropriate permits during the design phase of the marine terminal.

I hope this information is helpful in addressing your concerns. We look forward to working with you as the detailed project designs and mitigation plans are finalized. Should you have any questions or need any additional information, please do not hesitate to call Mr. Craig Seltzer of the Corps Norfolk District at (757) 201-7390.

Sincerely,

for Mr. Thomas W. Waters
Chief, Planning and Policy Division
Directorate of Civil Works

U.S. Department of Homeland Security
United States Coast Guard

Commander
Fifth Coast Guard District

431 Crawford Street
Portsmouth, VA 23704-5004
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16670
22 September 2006

MEMORANDUM

From: John R. Walters
CGD FIVE (dpw)

Reply to
Attn of: LT McCarthy
X 6483

To: Headquarters
U.S. Army Corps of Engineers CECW-P (SA)
7701 Telegraph Road
Alexandria, VA 22315-3860

Subj: CRANEY ISLAND EASTERN EXPANSION, NORFOLK HARBOR CHANNELS, HAMPTON ROADS, VIRGINIA

1. Thank you for the opportunity to review and comment on the Final Environmental Impact Statement for Craney Island Dredge Material Management Area (CIDMMA) expansion project.

2. After reviewing the Recommended Plan, the eastward expansion of the CIDMMA, the Coast Guard anticipates the following impacts to navigation:

   a. It appears that the approaches to the CIDMMA will require dredging between the new bulkhead and the toe of the existing federal navigation project, essentially dedicating this area as either a turning basin or approach channel to the new facility. This change in use will necessitate the removal of Elizabeth River Channel Lighted Buoy 14 (LL 9540) and Elizabeth River Channel Lighted Buoy 18 (LL 9605). Elizabeth River Channel Lighted Buoy 12 (LL9530) will be relocated to mark the new intersection between the terminal approach and the Federal Navigation Project. The new area will also essentially function as a turning basin for the existing Norfolk International Terminals, North and South (NIT North, NIT South).

   b. With the forecasted increase in traffic of 9-15 vessels/week associated with the CIDMMA, the increase in traffic associated with the Maersk Terminal in Portsmouth, steady growth in the remaining upriver Virginia Port Authority terminals and the movement of large naval vessels between the Naval Base and the Norfolk Naval Shipyard, the concentration of maneuvering and slow moving vessels in this area can be expected to increase. To ameliorate the potential increase in risk will require the establishment of new day/night ranges to serve both Norfolk Harbor Reach and Craney Island Reach, so that ship operators can maintain situational awareness. Based upon current construction costs for similar type structures, each range will cost $1.5-2.0M. Changes to the existing Regulated Navigation Area (33CFR165.501) to manage vessel traffic will require further investigation and coordination with the port community as the project evolves. Active management of vessel traffic will need to be fully explored.

SUBJ: CRANEY ISLAND EASTWARD EXPANSION, NORFOLK HARBOR AND CHANNELS, HAMPTON ROADS, VIRGINIA

community as the project evolves. Active management of vessel traffic will need to be fully explored.

3. There will be no impact to existing anchorages within the area of the Recommended Plan since there are none. Likewise, the need for additional deep draft anchorages outside of the investigated area should be explored to accommodate/complement the forecasted increase in vessel traffic. The July 1996 Supplemental Engineering Report to General Design Memorandum 1, Norfolk Harbor and Channels identified the physical requirements for a 50 foot anchorage within the Port of Hampton Roads. The recent improvements to the port and planned changes necessitate that the study be re-examined to quantify the pressures on existing anchorages and identify the need for additional deep draft anchorages.

Copy: COMDT COGARD (G-PW)
CG SECTOR Hampton Roads

###

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

OCT 25 2006

North Atlantic Division
Regional Integration Team

Mr. John R. Walters
Fifth Coast Guard District
United States Coast Guard
431 Crawford Street
Portsmouth, VA 23704-5004

Dear Mr. Walters:

This is in response to your letter dated September 22, 2006, providing comments on the Final Environmental Impact Statement (FEIS) for the Craney Island Eastward Expansion, Norfolk Harbor and Channels, Virginia, project, dated June 2006. The following paragraphs provide an initial response to your concerns regarding the removal and relocation of buoys and the potential increased vessel traffic.

The change in buoys described in your letter was incorporated into the ship simulation database and modeling as part of the feasibility study. With regards to the increased vessel traffic, additional studies to examine navigation issues will be performed during the Detailed Designed Phase of this project. The Corps will coordinate with the U.S Coast Guard to determine the best navigation layout for the final channel design. In addition, the Virginia Port Authority will develop a supplemental EIS for the actual port infrastructure which will evaluate the need for new anchorages.

I hope this information is helpful in addressing your concerns. We look forward to working with you as the detailed project designs and mitigation plans are finalized. Should you have any questions as you review the attached information or need any additional information, please do not hesitate to call Mr. Craig Seltzer of the Corps Norfolk District at (757) 201-7390.

Sincerely,

Thomas W. Waters, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

TAKE PRIDE IN AMERICA

JUL 12 2006

ER 06/509

Mr. Thomas W. Waters
Chief, Policy and Policy Compliance Division
Directorate of Civil Works
Headquarters, U.S. Army Corps of Engineers
CECW-P (SA)
7701 Telegraph Road
Alexandria, VA 22315-3860

Dear Mr. Waters:

As requested, the U.S. Department of the Interior has reviewed the Chief of Engineers' Proposed Report on Craney Island Eastward Expansion, Norfolk Harbor and Channels, Hampton Roads, VA.

The Department does not object to the proposed project and has no comments to offer. The point of contact is Ms. Loretta Sutton, 202-208-7565. We appreciate the opportunity to review the Chief's Proposed Report and supporting documents.

Sincerely,

Willie R. Taylor
Director, Office of Environmental
Policy and Compliance

COMMONWEALTH of VIRGINIA

Office of the Governor

L. Preston Bryant, Jr.
Secretary of Natural Resources

P.O. Box 1475
Richmond, Virginia 23218

June 9, 2006

Mr. Thomas W. Waters
Chief, Policy and Policy Compliance Division
Directorate of Civil Works
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Dear Mr. Waters:

This letter will acknowledge your recent letter to Governor Kaine regarding the proposed report of the Chief of Engineers and the report of the district engineer on Craney Island, Hampton Roads, Virginia. The Governor has asked that I respond to you on his behalf.

The report is under review by Ms. Ellie Irons, the Environmental Program Manager of the Virginia Department of Environmental Quality.

Sincerely,

L. Preston Bryant, Jr.

LPBJr/cbd

COMMONWEALTH of VIRGINIA

L. Preston Bryant, Jr.
Secretary of Natural Resources

DEPARTMENT OF ENVIRONMENTAL QUALITY
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David K. Paylor
Director

(804) 698-4000
1-800-592-5482

June 28, 2006

Headquarters
U.S. Army Corps of Engineers
CECW-P (SA)
7701 Telegraph Road
Alexandria, Virginia 22315

RE: Final EIS and Proposed Report of the Chief of Engineers, Craney Island Eastward Expansion, Hampton Roads, Virginia
DEQ-06-105F

Ladies and Gentlemen:

The Commonwealth of Virginia has completed its review of the above Final Environmental Impact Statement. The Department of Environmental Quality is responsible for coordinating Virginia's review of federal environmental documents prepared pursuant to the National Environmental Policy Act and responding to appropriate federal officials on behalf of the Commonwealth. In addition, DEQ's Office of Environmental Impact Review (this Office) coordinates Virginia's federal consistency reviews pursuant to the Coastal Zone Management Act. The following state agencies, regional planning district commission, and localities participated in this review:

Department of Environmental Quality (hereinafter "DEQ")
Department of Game and Inland Fisheries
Department of Conservation and Recreation
Department of Transportation
Department of Historic Resources
Hampton Roads Planning District Commission
City of Newport News
City of Portsmouth
City of Norfolk.

In addition, the Virginia Institute of Marine Science, the Marine Resources Commission, and the City of Hampton were invited to comment.

Our comments on the Final Environmental Impact Statement ("Final EIS") take into account our earlier review, last year, of the Draft EIS (DEQ-05-244F, comments mailed to the Corps of Engineers, Norfolk District on November 17, 2005).

Project Description

The Corps of Engineers and the Virginia Port Authority (the non-federal project sponsor) propose a 580-acre eastward expansion of the Craney Island Dredged Material Management Area, and to develop a container terminal thereon. The proposed expansion is located in the Port of Hampton Roads between Portsmouth and Norfolk. The Corps and the Port Authority propose to use the 580-acre expansion for a new dredged material placement cell, including a main dike and perimeter dikes, and then the Port Authority would construct a container terminal complex. (Final EIS, pages ES-6 and ES-7).

Environmental Impacts and Mitigation

1. Natural Heritage Resources. The Department of Conservation and Recreation has searched its Biotics Data System for occurrences of natural heritage resources in the project area. "Natural heritage resources" are defined as the habitat of rare, threatened, or endangered species of plants and animals, unique or exemplary natural communities, and significant geologic resources. The Department of Conservation and Recreation ("DCR") reports that there are natural heritage resources in the vicinity of the project. The following information reflects latest updates from the Biotics Data System, according to DCR (Bedwell/Ellis, 6/21/06).

(a) Animal species. (See also item 2(a)(i), below.) The piping plover, least tern, and black-necked stilt have been documented in the project vicinity.

(i) Piping Plover. The piping plover (*Charadrius melodus*) inhabits coastal areas, using the flat, sandy beaches of barrier islands for breeding. Threats to this species include predation of eggs and young, and the development and disturbance of barrier island breeding sites (Cross, 1991). The piping plover was last observed breeding on Craney Island in 1997; however, it is currently using the island for migration and foraging from early spring to late August.

The piping plover is listed as threatened by the U.S. Fish and Wildlife Service and the Virginia Department of Game and Inland Fisheries.

(ii) Least Tern. The least tern (*Sterna antillarum*) nests on broad, flat beaches with minimal vegetation, and forages in salt water near the shore. Threats to this species include loss of nesting habitat due to development and disturbance of breeding colonies by human activities and high numbers of predators (Beck, 1991).

The least tern is listed as a species of special concern by the Department of Game and Inland Fisheries.

(iii) Black-necked Stilt. The black-necked stilt (*Himantopus mexicanus*) occur primarily near shallow salt- or fresh-water bodies with soft muddy bottoms, including grassy marshes, wet savannas, mudflats, shallow ponds, flooded fields, and the borders of salt ponds. These birds nest along the shallow water of ponds, lakes, swamps, or lagoons and may nest on the ground or in shallow water on a plant tussock. Black-necked stilts feed on insects, crustaceans, and small fish as well as the seeds of aquatic plants.

(b) Plant and Insect Species. Under a memorandum of agreement between DCR and the Department of Agriculture and Consumer Services (VDACS), DCR represents VDACS in commenting on potential project impacts on state-listed threatened and endangered plant and insect species. The proposed eastward expansion and development of Craney Island will not affect any documented state-listed plants or insects, according to DCR.

(c) Recommendations. Because of the legal status of the piping plover, DCR recommends that the Corps of Engineers coordinate with the Fish and Wildlife Service and the Department of Game and Inland Fisheries to ensure compliance with the Endangered Species Act and state protected species legislation. See "Regulatory and Coordination Needs," item 1, below.

DCR also recommends that coordination with the Department of Game and Inland Fisheries be undertaken with regard to the Craney Island Bird Long-Term Management Plan contemplated as part of the proposed mitigation plan (see "Regulatory and Coordination Needs," item 1, below).

2. Wildlife Resources. The Department of Game and Inland Fisheries, as the Commonwealth's wildlife and freshwater fish management agency, exercises enforcement and regulatory jurisdiction over wildlife and freshwater fish, including state or federally listed endangered or threatened species, but excluding listed insects. The Department (hereinafter "DGIF") is a consulting agency under the U.S. Fish and Wildlife Coordination Act (16 U.S.C. sections 661 et seq.), and provides environmental analysis of projects or permit applications coordinated

through the Department of Environmental Quality and several other state and federal agencies. DGIF determines likely impacts upon fish and wildlife resources and habitat, and recommends appropriate measures to avoid, reduce, or compensate for those impacts.

(a) Findings.

(i) Effects on Marine Mammals. The Final EIS indicates that increases in vessel traffic attributable to this project are not likely to affect marine mammals listed by the state or federal governments as endangered or threatened (page IV-34, section IV.1.3.1.4). The Department of Game and Inland Fisheries disagrees with this conclusion. The increase in container ship operations in Virginia's coastal waters may adversely affect marine mammals. In the last several years, marine mammal vessel strikes have increased in these waters. These strikes have included two northern right whales (listed by federal and state governments as endangered) that sustained mortal injuries after colliding with vessels near the mouth of the Chesapeake Bay. Marine mammals are known to occur in Virginia's ocean and in-shore shipping channels, though their densities and temporal/spatial distributions remain largely unknown.

(ii) Selected Mitigation Plan. The Department of Game and Inland Fisheries supports the selected mitigation plan. See item 2(b), next.

(b) Selected Mitigation Plan. The selected mitigation plan consists of 20 acres of oyster reef restoration, 56 acres of wetland restoration, and 67 acres of bottom sediment clean-up that will result in 411 acres of bottom restoration. The wetland and oyster reef restoration includes a site at Ragged Island Wildlife Management Area. The mitigation plan also includes development of a Craney Island Bird Long-Term Management Plan.

(c) Recommendations.

(i) Marine Mammal Protection. The Department of Game and Inland Fisheries understands that the Port Authority is a member of the Northeast Implementation Team for the Recovery of the North Atlantic Right Whale (Final EIS, page IV-34). Accordingly, the Port Authority should address the issue of marine mammal mortality by assessing the spatial and temporal distribution and abundance of marine mammals in Virginia's nearshore and in-shore shipping channels. The Port Authority should also examine measures to minimize the potential for vessel strikes.

(ii) Coordination. The Corps, and/or the Port Authority, should coordinate activities at Ragged Island Wildlife Management Area with the Department of Game and Inland Fisheries. Similarly, the bird management plan should be coordinated. See "Regulatory and Coordination Needs," item 1, below.

(d) Additional Wildlife Information. DGIF maintains a data base of wildlife locations, including threatened and endangered species, trout streams, and anadromous fish waters, that may contain information not documented by DCR (item 1, above). Access to this data base may be obtained through the DGIF web site:

http://www.dgif.virginia.gov/wildlife/info_map/index.html

Questions on this web site may be addressed to the Department of Game and Inland Fisheries (Shirl Dresser, telephone (804) 367-6913).

3. Air Quality. DEQ's Division of Air Program coordination reiterated the guidance it provided in our comments on the Draft EIS. This guidance follows.

According to DEQ's Division of Air Program Coordination, Craney Island is in an ozone non-attainment area. For this reason, emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) to project construction and operation should be kept to a minimum. VOCs and NO_x are precursors to atmospheric ozone (O_3).

(a) Open Burning. If project activities include the burning of construction or demolition material, this activity must meet the requirements of the Regulations for open burning (9 VAC 5-40-5600 et seq.), and it may require a permit (see "Regulatory and Coordination Needs, item 3). The Regulations provide for, but do not require, the local adoption of a model ordinance concerning open burning. The Corps and the Port Authority should contact appropriate local officials to determine what local requirements, if any, exist. The model ordinance includes, but is not limited to, the following provisions:

- All reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles;
- The material to be burned shall consist of brush, stumps and similar debris waste and clean burning demolition material;
- The burning shall be at least 500 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
- The burning shall be conducted at the greatest distance practicable from

highways and air fields;

- The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
- The burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and
- The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

(b) Fugitive Dust Control. During construction, fugitive dust must be kept to a minimum by using control methods outlined in 9 VAC 5-50-60 et seq. of the Regulations for the Control and Abatement of Air Pollution. These precautions include, but are not limited to, the following:

- Use, where possible, of water or chemicals for dust control; Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;
- Covering of open equipment for conveying materials; and
- Prompt removal of spilled or tracked dirt or other materials from paved streets and removal of dried sediments resulting from soil erosion.

(c) Fuel-burning Machinery. Fuel-burning machinery used in the expansion of Craney Island, the resulting construction of a shipping terminal, and the operation and maintenance of the terminal may require air pollution control permits from DEQ. See "Regulatory and Coordination Needs," item 3, below.

4. Solid and Hazardous Waste Management. DEQ's Waste Division has nothing to add to its comments on the Draft EIS. Those comments follow.

(a) Finding. The Waste Division performed a cursory review of its data files and determined that the Craney Island Dredged Material Management Area is listed by EPA as a small-quantity generator of hazardous wastes (SQG) under identification number VAR000006569. (The Draft EIS states that the area is a conditionally-exempt small-quantity generator of hazardous wastes; see page III-44). The following web site may be helpful in locating additional information for this identification number:

- http://www.epa.gov/echo/search_by_permit.html.

(b) Guidance. Any sediment suspected of contamination, or hazardous or solid wastes that are generated, transported, disposed, stored, or treated in Virginia must be tested and handled in accordance with applicable federal, state, and local laws and regulations. Dredge spoils, when managed in accordance

with requirements of the State Water Control Board or other Virginia agencies with similar authority, are conditionally exempt from the Virginia Solid Waste Management Regulations (9 VAC 20-80-60.E.), and are excluded from the waste barging regulations (9 VAC 20-170-10).

In addition, any storage, treatment, or disposal of hazardous wastes must be conducted in accordance with applicable state laws and regulations. These include, but are not limited to, the following:

- Virginia Waste Management Act (*Virginia Code* sections 10-1400 et seq.);
- Virginia Hazardous Waste Management Regulations (9 VAC 20-60);
- Virginia solid Waste Management Regulations (9 VAC 20-80); and
- Virginia Regulations for the Transportation of Hazardous Materials (9 VAC 20-110).

Applicable federal laws include, but are not limited to:

- Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.);
- U.S. Department of Transportation's Rules for Transportation of Hazardous Materials, 49 Code of Federal Regulations, Part 107.

(c) Pollution Prevention. DEQ encourages the Corps to implement pollution prevention principles, including the reduction of solid wastes at the source, re-use of materials, and recycling of waste materials.

5. Water Quality and Wetlands.

(a) Project Impacts and Documentation. DEQ's Tidewater Regional Office states that the project will involve significant impacts to surface waters and wetlands. The Joint Federal-State Permit Application ("JPA") should document that these impacts have been avoided and minimized to the maximum extent practicable, and that remaining unavoidable impacts have been properly compensated. The JPA should be completed and submitted prior to the beginning of work on the project; see "Regulatory and Coordination Needs," item 2, below.

(b) Mitigation Plan. While the mitigation plan in the Final EIS represents the consensus of a diverse group of stakeholders, it is not sufficiently detailed for regulatory purposes. Significantly more detail will be required for each component of the plan, and adjustments to the plan may be required depending on the nature of the details presented. See "Regulatory and Coordination Needs," item 2, below.

(c) The Document. In its comments on the Draft EIS, DEQ's Tidewater Regional Office questioned the use of the term "negligible impacts" in Table II-2 (Draft EIS, page II-27). The "Response to Comments" section of the Final EIS (Appendix K, CD version) indicates that table II-3 has been revised to reflect "minor" impacts. However, this change does not appear to be reflected in that table in the Final EIS (Final EIS, Table II-3, pages 2-29 through 2-32). In addition, the footnoted legend has been omitted from the Final EIS. As the only link between Table II-2 (criteria, pages II-27 and II-28) and Table II-3 (impacts), the legend should be an integral part of both tables.

6. Historic Structures and Archaeological Resources. The Department of Historic Resources expects to continue its direct consultation with the Corps of Engineers, pursuant to section 106 of the National Historic Preservation Act.

7. Road Transportation. In its response to the Draft EIS, the Department of Transportation ("VDOT") indicated that the proposed project would not affect the local road and highway network, but that the project might be affected by planned road projects such as the "Third Crossing" with its connection through the Craney Island Expansion to Route 164 (Western Highway). VDOT has no additional comments.

8. Natural Area Preserves. According to the Department of Conservation and Recreation, there are no state Natural Area Preserves in the vicinity of the project.

9. Local and Regional Comments.

(a) Hampton Roads Planning District Commission. The Commission finds, on the basis of its consultation with the Cities of Hampton, Newport News, Norfolk, and Portsmouth, that the proposed project is generally consistent with local and regional plans and policies. The project would be advantageous to the continued economic development of the region and the state. The Commission staff indicates that the proposed mitigation plan appears adequate to compensate for the environmental impacts of the project (see also "Environmental Impacts and Mitigation," items 2(b) and 5(b), above).

(b) Individual Cities. The City of Newport News supports the recommended plan in the Final EIS, because expansion of the dredged material spoil capacity of Craney Island is critical to keeping navigation routes open for the Navy and commercial shipping. Development of the project will also provide money for the Third Crossing of Hampton Roads Harbor (see item 8, above).

According to the City of Portsmouth, the project will require a permit from the Portsmouth Wetlands Board. The permit may require an on-site mitigation plan.

The City of Norfolk has no comments on the Final EIS (Ballard/Ellis, 6/26/06).

Federal Consistency under the Coastal Zone Management Act

Pursuant to the Coastal Zone Management Act of 1972, as amended, federal activities taking place inside or outside of Virginia's designated coastal management area that can have reasonably foreseeable effects on coastal resources or coastal uses must, to the maximum extent practicable, be implemented in a manner consistent with the Virginia Coastal Resources Management Program (VCP). The VCP consists of a network of programs administered by several agencies. The DEQ coordinates the review of federal consistency determinations with agencies administering the Enforceable and Advisory Policies of the VCP.

Based on the information submitted and the comments of reviewing agencies, we concur that the proposed eastward expansion of Craney Island is consistent with the Virginia Coastal Resources Management Program, **provided** that the Corps, the Port Authority, and their contractors obtain all approvals not yet secured that are applicable to the enforceable policies, and adhere to all the conditions of the Virginia Water Protection Permit, the Marine Resources Commission Permit (if that is required), and carry out the subsequent development consistently with the Chesapeake Bay Preservation Act (*Virginia* Code sections 10.1-2100 et seq.). In accordance with the Federal Consistency Regulations at 15 CFR Part 930, section 930.4, this conditional concurrence is based on the Corps, the Port Authority, and their contractors obtaining necessary authorizations prior to any ground disturbance. If the requirements of section 930.4, sub-paragraphs (a) through (a)(3) are not met, this conditional concurrence becomes an objection under 15 CFR Part 930, section 940.43.

1. Wetlands Management. According to DEQ's Tidewater Regional Office, the project will be consistent with the wetlands management enforceable policy of the Virginia Coastal Resources Management Program if a Virginia Water Protection Permit is issued and complied with, and if all required compensatory mitigation is provided.

2. Subaqueous Lands Management. As stated in our comments on the Draft EIS, the project will require a permit from the Marine Resources Commission unless there is a legal or regulatory exemption, and compliance with that permit will be necessary for consistency of the project with this component of the Enforceable Policies.

3. Coastal Lands Management. As indicated in our comments on the Draft EIS, the eastward expansion of Craney Island takes place on open water that is not under the jurisdiction of the Chesapeake Bay Preservation Act (*Virginia Code* sections 10.1-2100 et seq.) or the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 et seq.) which implement the Act. However, subsequent development of the 580-acre expansion must be consistent with the Act and the Regulations. Specifically, development of the marine terminal facility must be consistent with the stormwater management criteria that meet the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20 et seq.; see 4 VAC 3-20-71). In addition, for land disturbance of 2,500 square feet or more, the development of the terminal must comply with the Virginia Erosion and Sediment Control Regulations and the *Erosion and Sediment Control Handbook* (third edition, 1992).

Regulatory and Coordination Needs

1. Wildlife Resources Protection. Any activities at Ragged Island Wildlife Management Area should be coordinated with the Department of Game and Inland Fisheries (Glen Askins, Regional Wildlife Manager, telephone (804) 843-5966). The bird management plan should be coordinated with the Department as well (Ruth Boettcher, Eastern Shore Biologist, telephone (757) 787-5911); the Department of Conservation and Recreation concurs in this recommendation.

The Corps should also coordinate with the Department of Game and Inland Fisheries (above) and with the U.S. Fish and Wildlife Service (Karen Mayne, Virginia Field Office Supervisor, telephone (804) 698-6694) concerning protection of the piping plover, a threatened species (see "Environmental Impacts and Mitigation," item 1(a)(i), above).

2. Water and Wetland Permitting. The Corps and the Virginia Port Authority should prepare and submit Joint Permit Applications covering the eastward expansion of Craney Island, as well as for the proposed terminal development thereon. The JPAs should be submitted to the Marine Resources Commission (2600 Washington Avenue, Newport News, Virginia 23607), which will distribute copies of it to appropriate regulatory agencies including DEQ's Tidewater Regional Office, the Portsmouth Wetlands Board, the Corps Regulatory Branch if appropriate, and the Commission itself. As indicated above ("Environmental Impacts and Mitigation," item 5), the JPA should be accompanied by a more detailed mitigation plan. Questions on this point may be directed to DEQ's Tidewater Regional Office (Bert Parolari, telephone (757) 518-2166). Questions on the joint permitting process may be directed to the Marine Resources Commission (Tony Watkinson, telephone 247-2200).

3. Air Quality Regulation. As indicated above ("Environmental Impacts and Mitigation," item 3(a)), any open burning contemplated in connection with the project may require an open burning permit from DEQ. Similarly, fuel-burning equipment may require air pollution control permits from DEQ. Questions on both types of permitting requirements should be directed to DEQ's Tidewater Regional Office (Jane Workman, Air Permits Manager, telephone (757) 518-2112).

Thank you for the opportunity to review the Final EIS. If you have questions, please feel free to contact me (telephone (804) 698-4325) or Charles Ellis of this Office (telephone (804) 698-4488).

Sincerely,

Ellie L. Irons
Program Manager
Office of Environmental Impact Review

Enclosures

cc: (next page)

cc: Andrew K. Zadnik, DGIF
Scott A. Bedwell, DCR
Paul W. Kohler, DEQ-Waste
Kotur S. Narasimhan, DEQ-Air
Bert W. Parolari, Jr., DEQ-TRO
Mary T. Stanley, VDOT
Roger W. Kirchen, DHR
David L. O'Brien, VIMS
Alice R. T. Baird, DCR-DCBLA
John M. Carlock, Hampton Roads PDC
Randy W. Hildebrandt, City of Newport News
Amy Crum, City of Portsmouth
James Freas, City of Hampton
Brian Ballard, City of Norfolk
Mark T. Mansfield, ACOE
Lee Ware, ACOE

COMMONWEALTH of VIRGINIA

L. Preston Bryant, Jr.
Secretary of Natural Resources

Department of Historic Resources
2801 Kensington Avenue, Richmond, Virginia 23221

Kathleen S. Kilpatrick
Director

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www.dhr.virginia.gov

June 23, 2006

Mr. Mark T. Mansfield
US Army Corps of Engineers
Planning and Policy Branch
803 Front Street
Norfolk, VA 23510-1096

Re: Craney Island Eastward Expansion Study
DEQ No. 05-244F
DHR File No. 2004-1428

Dear Mr. Mansfield:

We have received for review a copy of the final report and Environmental Impact Statement for the above referenced project. As you know, on October 17, 2005, we provided comments regarding the potential for the project to affect archaeological resources within the river channel. We concurred with the Corps' recommendation that no historic properties that may be damaged by proposed activities exist within surveyed area, and that no further archaeological investigation within the channel was necessary. We have also reviewed the survey records for adjacent structural properties and have no further concerns regarding visual effects to historic properties adjacent to the facility. It is our opinion that the proposed expansion will have no adverse effect upon historic properties.

We have not been provided with adequate information regarding the construction of access roadways or rail corridors, and recommend that the Corps continue to consult with DHR as preferred alternatives are established.

We appreciate the opportunity to be of assistance to you in this matter. If you have questions about our comments, please call me at (804) 367-2323, Ext. 140.

Sincerely,

Joanna Wilson, Archaeologist
Office of Review and Compliance

Administrative Services
10 Courthouse Avenue
Petersburg, VA 23803
Tel: (804) 863-1624
Fax: (804) 862-6196

Capital Region Office
2801 Kensington Ave.
Richmond, VA 23221
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Tidewater Region Office
14415 Old Courthouse Way, 2nd Floor
Newport News, VA 23608
Tel: (757) 886-2807
Fax: (757) 886-2808

Roanoke Region Office
1030 Penmar Ave., SE
Roanoke, VA 24013
Tel: (540) 857-7585
Fax: (540) 857-7588

Winchester Region Office
107 N. Kent Street, Suite 203
Winchester, VA 22601
Tel: (540) 722-3427
Fax: (540) 722-7535

Bee, Patricia L HQ02

From: Nies, Nick M. [Nicholas.Nies@VDOT.Virginia.gov]
Sent: Wednesday, September 06, 2006 3:41 PM
To: Bee, Patricia L HQ02
Cc: Wamsley, J. Cooper; Myers, Kenneth
Subject: Craney Island EIS Comments

Importance: High

Hello Patricia,

I would like to apologize for not getting our comments to you sooner and greatly appreciate your patience! Please take the following comments into consideration:

* The FEIS uses traffic information and an approved long range transportation plan that is out of date. Utilizing the current expectations of total trips from the facility as noted by Table IV-15 on page IV-53, the impact analysis should utilize at a minimum the 2026 long range plan with the 4,521 trips applied to the Western Bypass (Virginia 164) in a directional methodology. The higher percentage of the trips should be applied as traveling towards the Portsmouth Marine Terminal (PMT) and the Norfolk International Terminals (NIT). The Hampton Roads Third Crossing (HR3X) should not be considered in this traffic impact analysis since it is now highly unlikely the facility will be in place by 2026. Our directional assumption for the impact analysis is supported by the FEIS assumption that the majority of westbound freight from the ports will travel by means of rail. As a result of this suggested methodology there is an expected to change to the impacts regarding Virginia 164, the Midtown Tunnel, and perhaps justification for the extension of Martin Luther King Highway to Interstate 264. As a result the Department requests the traffic analysis be re-evaluated and re-submitted for review.

* The Department turns away, on average, more than 50 over-height vehicles a month at the Midtown Tunnel. Many of these vehicles are carrying port authority freight between PMT and NIT. Our enforcement issues at the Midtown Tunnel are expected to increase as a result of this projects generation of truck traffic and will further aggravate congestion issues at the facility. This impact should also be addressed by the FEIS.

1.
* It appears that the COE recommended alternative (eastern expansion only) is in accordance with our previous comments. The key thing to remember is that if the expansion takes place, and if the VPA desires a nearly direct connection between Craney Island forth cell port area in Portsmouth and the current port along Hampton Boulevard in Norfolk via the HR3X, segments I and III, or some hybrid of the two segments would need to be constructed to support that movement. Extensive engineering coordination would be necessary.

* The Craney Island Expansion EIS recommended alternative does not adversely impact the HR3X as envisioned and approved by the CTB.

Thank you,

Nick

Nicholas M. Nies

Environmental Division

DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
441 G Street N.W.
WASHINGTON, D.C. 20314-1000

OCT 25 2006

REPLY TO
ATTENTION OF:

North Atlantic Division
Regional Integration Team

Mr. Nicolas M. Niles
Environmental Project Manager
Virginia Department of Transportation
Environmental Division
1401 Broad Street
Richmond, Virginia 23219

Dear Mr. Niles:

This is in response to your e-mail comments, dated September 6, 2006, to the Final Environmental Impact Statement (FEIS) for the Craney Island Eastward Expansion, Norfolk Harbor and Channels, Virginia, project, dated June 2006. The following paragraphs provide an initial response to your concerns regarding the potential impacts of additional traffic generated by the container facility. These impacts would result primarily from the landside transportation facilities to be constructed by the Virginia Port Authority (VPA). Prior to construction of the marine terminal and related transportation facilities, a supplemental EIS will be prepared that more fully describes the environmental impacts associated with the construction and operation of these facilities. Both the U.S. Army Corps of Engineers and VPA will coordinate these issues with your office during detailed design phases.

With regards to the long range traffic plan, the 2018 traffic information was the only available information at the time this analysis was conducted between 2002 and 2004. Based on our review of the more current 2026 traffic projections, we do not believe that there would be any significant changes to the EIS or that the recommendations of the report would be different.

With regards to the Midtown Tunnel, VPA does not anticipate the need to move cargo between terminals and therefore this project will not increase traffic volume at the tunnel. The only traffic that moves between the Portsmouth Marine Terminal and the Norfolk International Terminals (NIT) is cargo that must be put on rail at NIT. The Craney Island Marine Terminal will have an on-dock rail yard serviced by Norfolk-Southern and CSX Railroads, thus eliminating the need to move cargo between terminals.

I hope this information is helpful in addressing your concerns. We look forward to working with you as the detailed project designs and mitigation plans are finalized. Should you have any questions as you review the attached information or need any additional information, please do not hesitate to call Mr. Craig Seltzer of the Corps Norfolk District at (757) 201-7390.

Sincerely,

Thomas W. Waters, P.E.
Chief, Planning and Policy Division
Directorate of Civil Works